

MDR Tracking Number: M5-04-2832-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 5-3-04.

Dates of service prior to 5-3-03 were submitted untimely per Rule 133.308 and will not be considered in this decision.

The IRO reviewed the medical necessity of therapeutic exercises, myofascial release, unlisted procedure, office visit level II, joint mobilization, neuromuscular re-education, manipulation one area, chiropractic manipulation, electrical stimulation, training in activities of daily living, hot/cold pack therapy, and books and/or educational supplies rendered from 5-13-03 through 8-18-03 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

The following table identifies the disputed services and Medical Review Division's rationale:

Neither party in the dispute submitted EOBs for some of the disputed services identified below. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
6-3-03	99213	\$48.00	\$0.00	No EOB	\$48.00	CPT Code Descriptor	MAR reimbursement of \$48.00 is recommended.
6-3-03	99080-73	\$15.00	\$0.00		\$15.00		MAR reimbursement of \$15.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$63.00

DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to reimbursement for CPT codes, 99213 and 99080 in the amount of **\$ 63.00**. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit **\$63.00** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Findings, Decision and Order are hereby issued this 1st day of December 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

July 30, 2004

Amended Letter 11/01/04

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-04-2832-01
IRO Certificate #: IRO 4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating that no

known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 52 year-old female suffered a low back injury on ____, resulting in chronic back pain with tenderness. An magnetic resonance imaging study documents bilateral lumbar radiculopathy and her diagnoses are listed as lumbar intervertebral disc syndrome with radiculitis, restriction of motion, and deep and superficial muscle spasm. She continues treatment with active and passive rehabilitation with a chiropractic service.

Requested Service(s)

Therapeutic exercises, myofascial release, unlisted procedure, office visit level II, joint mobilization, neuromuscular re-education, manipulation one area, chiropractic manipulation, electrical stimulation, training in activities of daily living, hot/cold pack therapy, and books and/or educational supplies for dates of service 05/13/03 through 08/18/03.

Decision

It is determined that the therapeutic exercises, myofascial release, unlisted procedure, office visit level II, joint mobilization, neuromuscular re-education, manipulation one area, chiropractic manipulation, electrical stimulation, training in activities of daily living, hot/cold pack therapy, and books and/or educational supplies for dates of service 05/13/03 through 08/18/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient, a 52 yr-old female, suffered a low back injury on ____, resulting in chronic back pain with tenderness. The initial medical report from the chiropractor revealed that the patient complained of lower back pain after lifting a box weighing 30 pounds and the examination revealed reduced lumbar ranges of motion and locally positive lumbar orthopedic tests. The patient complained of pain rated at 8 on a scale of 10 and the magnetic resonance imaging (MRI) study dated 10/11/02 revealed 1 to 2 millimeter disc bulges from L1-2 through L5-S1. The patient began a course of chiropractic care including exercises, passive therapy, and manipulation/mobilization treatments. She was treated regularly through the end of December 2002 with the above-mentioned treatments.

The patient was seen by an orthopedic surgeon on 12/23/02 and diagnosed with bilateral L4 radiculopathy and she was prescribed a Transcutaneous Electrical Nerve Stimulation (TENS) unit, a Medrol dose pack, Pepcid, Lortab, Parafon Forte, Lodeine, and Bioflexor Gel.

The patient was re-examined on 01/31/03 and she complained of lower back pain and right leg pain rated at 4 on a scale of 10. The patient was scheduled for manipulation under anesthesia on 02/03/03 and she was to have rehabilitation following the procedures.

The patient was re-examined on 02/28/03 and she complained of pain rated at 4 on a scale of 10 and the examination revealed that lumbar ranges of motion were slightly reduced and orthopedic tests were locally positive.

The patient underwent a lumbar epidural steroid injection (ESI) on 04/07/03 and 04/21/03.

The patient was re-examined by the chiropractor on 04/09/03 and she complained of pain rated at 8 on a scale of 10. She had undergone two ESI's and she was to continue with rehabilitation, passive care, and manipulation. Lumbar ranges of motion were slightly reduced and orthopedic tests were locally positive.

The patient was re-examined by the chiropractor on 05/01/03 and she complained of pain rated at 8 on a scale of 10 and her examination revealed nearly normal lumbar ranges of motion and locally positive orthopedic tests. The patient had recently undergone a third ESI and she was to continue with passive and active care.

The patient was re-examined by the chiropractor on 07/26/03 and she complained of pain rated at 6 on a scale of 10. Lumbar ranges of motion were slightly reduced and orthopedic tests were locally positive. Treatments consisted of sine/sound therapy, myofascial release, joint mobilization, and exercise. The patient was to remain off work.

The claimant underwent a functional capacity evaluation on 09/12/03 and the report indicated that she was functioning at the sedentary/light level.

The patient was re-examined by the chiropractor on 09/26/03 and she complained of intermittent pain rated at 1 on a scale of 10 and she was ready to return to work at full duty. The examination was essentially unremarkable and the patient was not scheduled for any more treatments as of 09/26/03.

The continued chiropractic treatments and use of passive modalities and treatments from 05/13/03 through 08/18/03 were not medically necessary for this patient based on the documentation submitted. The treatment included therapeutic exercises, myofascial release, unlisted procedure, office visit level II, joint mobilization, neuromuscular reeducation, manipulation one area, chiropractic manipulation, electrical stimulation, training in activities of daily living, hot/cold pack therapy, and books and/or educational supplies.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (i.e. thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy (*Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain, Physical Therapy*. 2001; 81: 1641-1674).

The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems In Adults" indicates that "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost". They did note that some patients with acute low back problems appear to have temporary symptomatic relief with physical agents and modalities. Therefore, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation, etc) is not indicated after the first 2 to 3 weeks of care.

Triano studied the differences in treatment history with manipulation for acute, subacute, and recurrent spine pain and found that all but 25 (10.37 percent) of the original 241 patients in the study had their conditions resolve in six weeks or less (*Triano, J.J., et al, "Differences in treatment history with manipulation for acute, subacute, chronic, and recurrent spine pain", JMPT, 15:24-30, 1992*).

Haldeman reported that manipulation appears to have its greatest effect immediately following and during the initial two to six weeks of ongoing treatment. Haldeman noted that the effectiveness of manipulation for the management of back pain seems to be minimal at 3 months to 12 months (*Haldeman, S., "Spinal manipulative therapy: A status report", Clinical Orthopedics and Related Research, 179:62-70, 1983*).

Cox and Schreiner conducted a multicenter observational pilot study to compile statistics on 576 patients with low back and/or leg pain. The purpose was to determine the congenital and developmental changes in patients with low back and/or leg pain, the combinations of such anomalies, the accuracy of orthodox diagnostic tests in assessing low back pain, ergonomic factors affecting onset and, ultimately, the specific difficulty factors encountered in treating the various conditions seen in the average chiropractor's office. For all conditions treated, the average number of days to attain maximum improvement was 43 and the number of visits was 19. It was concluded that this study provided useful data for assessment of routine chiropractic office-based diagnosis and treatment of related conditions; however, further controlled studies are necessary for validation of specified parameters (*Cox JM, and Schreiner S., "Chiropractic manipulation in low back pain and sciatica: statistical data on the diagnosis, treatment and response of 576 consecutive cases", J Manipulative Physiol Ther 1984 Mar;7(1):1-11*).

The office visits level II from 05/13/03 to 08/18/03 were not medically necessary. The documentation submitted did not support the medical necessity for the continued, sequential use of the office visit level II code. No documentation was reviewed for any of these dates of service in question regarding these codes.

The use of neuromuscular reeducation from 05/13/03 to 08/18/03 was not medically necessary. The neurological evaluations conducted over the course of the claimant's care revealed no evidence of a neurological deficit. Neuromuscular reeducation is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the claimant's. The Current Procedural Terminology (CPT) Code Book defines neuromuscular reeducation as: "*neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception*". The procedure is

utilized to re-establish the neural link between the central nervous system and the motor system after neurological injury. As no evidence of a substantive neural injury was noted, the use of the procedure was not consistent with the diagnosis.

The training in activities of daily living and the books and/or educational supplies from 05/13/03 to 08/18/03 were not medically necessary. No documentation was submitted regarding these procedures and treatments to support the medical necessity of the treatments in question.

The therapeutic exercises billed from 05/13/03 to 08/18/03 were not medically necessary based on the documentation reviewed. There were no progress notes submitted for review regarding the multiple units of therapy (4 to 5 units per date of service), and the Functional Capacity Evaluation (FCE) reviewed in this case revealed no benefits from the multiple dates of rehabilitation treatments. The claimant underwent a FCE on 09/12/03 and the report indicated she was functioning at the sedentary/light level.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm

Attachment

Information Submitted to TMF for TWCC Review

Patient Name:

TWCC ID #: M5-04-2832-01

Information Submitted by Requestor:

- Position Statement
- Medical Report/Dr Guajardo 11/7/02-9/26/03
- Functional Capacity Evaluation 9/12/03
- Work Hardening Report 8/26/03-9/10/03
- Request for Reconsideration

Information Submitted by Respondent:

- Medical Request Resolution Request
- Table of Disputed Services
- Explanation of Benefits
- Peer Review 12/16/02, 5/16/03
- Office notes/Chiropractic/Guajardo 1/31/03
- MRI report 10/11/02
- Orthopedic consultation 11/25/02, 12/23/02
- Office notes/Chiro/Doctors Clinic 6/23/02-12/22/02
- ESI report 4/7/03
- Nerve block report 4/21/03